



San Diego County SHERIFF'S DEPARTMENT

NOTICE OF PROPOSED DISCIPLINARY ACTION

2009-001.1

TO: William Gore, Sheriff		DATE: 12-29-09	
It is recommended that the following disciplinary action be administered to the below named employee:			
EMPLOYEE'S NAME:	Richard Fried #4015	TITLE:	Deputy Sheriff - Detentions
DEPARTMENT POLICY AND / OR PROCEDURE SECTION(S) VIOLATED:	2.4 Unbecoming Conduct	2.46 Truthfulness	
	2.6 Conformance to Laws 664-207	2.30 Failure to Meet Standards	
	2.6 Conformance to Laws 653 (m)		
RECOMMENDED DISCIPLINE:	Termination		
SECOND LEVEL SUPERVISOR:	M. Kania, Lieutenant	DATE:	12-29-09
LIST PRIOR FORMAL DISCIPLINE WITHIN LAST FIVE YEARS WITH DATE			
I have been advised of the above charges and recommended discipline:			
EMPLOYEE'S SIGNATURE:	<i>[Signature]</i>	DATE:	12/29/09
2 nd LEVEL SUPERVISOR SIGNATURE:	<i>[Signature]</i>	DATE:	12-29-09
3 rd LEVEL SUPERVISOR SIGNATURE:	<i>[Signature]</i>	DATE:	1/4/2010
COMMENTS:			
REVIEWED BY INTERNAL AFFAIRS:	<i>[Signature]</i>	DATE:	1/13/2010
4 th LEVEL SUPERVISOR SIGNATURE:	Jorge Ingrassia, Commander-Detentions	DATE:	5-5-10
COMMENTS:			
ADDITIONAL REVIEW:	A. H. Guerin II, Assistant Sheriff	DATE:	03/05/10
ADDITIONAL REVIEW:	Jim Cooke, Undersheriff	DATE:	3-15-10
ADDITIONAL REVIEW:	William D. Gore, Sheriff	DATE:	3/15/10
INTERNAL AFFAIRS SECTION			
<input type="checkbox"/> WRITTEN REPRIMAND BY:		DATE:	
<input checked="" type="checkbox"/> NOTICE OF INTENT AND CHARGES:	<i>[Signature]</i>	DATE:	1-14-10
<input checked="" type="checkbox"/> ORDER SERVED:	C. Buchanan	DATE:	3/15/10
<input checked="" type="checkbox"/> CIVIL SERVICE NOTIFIED:	P. Lorenz, AdminSecII	DATE:	03-16-2010
<input type="checkbox"/> PAYROLL NOTIFIED:		DATE:	
FINAL ACTION TAKEN:	TERMINATION	DATE:	03-15-2010

Released from
I.A. Files
TO: *[Signature]*

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

March 16, 2010

IA# 2009-001.1

RECEIVED

MAR 19 2010

**CIVIL SERVICE
COMMISSION**

TO: Civil Service Commission

FROM: Brian Conway, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – RICHARD FRIED

The Order of Termination and Charges dated 03-04-2010 filed against Richard Fried has been received by the Civil Service Commission on: 3/19/10

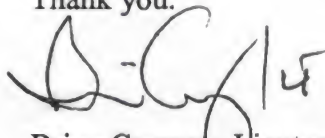
Date

Commission Response:

- ☒ The above individual **HAS** appealed the Order of Termination and Charges.
- ☐ The above individual **HAS NOT** appealed the Order of Termination and Charges.

Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.



Brian Conway, Lieutenant
Internal Affairs Unit
(858) 974-2065

Attachment

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

March 16, 2010
IA# 2009-001.1

TO: Civil Service Commission

FROM: Brian Conway, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – RICHARD FRIED

The Order of Termination and Charges dated 03-04-2010 filed against Richard Fried has been received by the Civil Service Commission on:

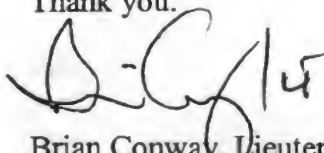
Date

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- ☐ The above individual HAS appealed the Order of Termination and Charges.
- ☐ The above individual HAS NOT appealed the Order of Termination and Charges.

Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.



Brian Conway, Lieutenant
Internal Affairs Unit
(858) 974-2065

Attachment



RECEIPT OF MATERIALS

EMPLOYEE: RICHARD FRIED #4015

Case # 2009-001.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Notice of Proposed Disciplinary Action to Richard Fried dated 01-04-2010	<div>1-14-10 RF</div>	<div>1-14-10 [Signature]</div>
Notice of Intent of Termination and Charges to Richard Fried dated 01-13-2010		
Discipline Recommendation & Rationale to Sheriff Gore from Lieutenant-Detentions M. Kania dated 12-18-2010 and attachment (One (1) CD-R)		
Investigative Reports by Sergeant-Detentions J. Hannis dated 10-06-2009 and attachments		
Skelly Conference Letter to Richard Fried		
Order Not to Disclose Materials to Richard Fried		
Declaration/Acknowledgement of Personal Service		
One (1) CD-R		



RECEIPT OF MATERIALS

EMPLOYEE:RICHARD FRIED #4015 / 001088

Case #

[illegible]



William D. Gore, Sheriff

San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



Thomas J. Cooke, Undersheriff

March 4, 2010

Richard Fried
[REDACTED]

Dear Deputy-Detentions/Ctsvc Fried:

ORDER OF TERMINATION AND CHARGES, CASE #2009-001.1

I hereby order that you be terminated from your position as a Deputy Sheriff-Detentions (Class #5757) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes:

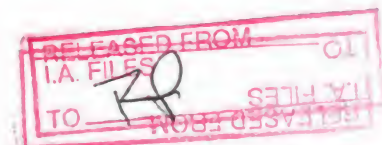
CAUSE I

You are guilty of Conduct Unbecoming an Officer, as set forth under Section 7.2 (m) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.4 – Unbecoming Conduct**, in that: On July 23, 2008, you placed an object (simulating a weapon) in [REDACTED] back in an attempt to force her into your vehicle. Your actions caused a Crime/Incident Report to be written and initiated a criminal investigation. You have failed as an employee to conduct yourself at all times, in such a manner as to reflect most favorably on this Department.

CAUSE II

You are guilty of Failure of Good Behavior as set forth under Section 7.2 (r) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.6 – Conformance to Laws**, as it relates to *California Penal Code §664-207 Attempt Kidnapping*, in that: On July 23, 2008, you placed an object (simulating a weapon) in [REDACTED] back in an attempt to force her into your vehicle. On October 31, 2008, during a recorded telephone conversation with [REDACTED], you acknowledged your culpability for the act. You failed as an employee to obey all laws of the United States, of this state, and of local jurisdictions.

"Keeping the Peace Since 1850"



CAUSE III

You are guilty of Failure of Good Behavior as set forth under Section 7.2 (r) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.6 – Conformance to Laws**, *as it relates to California Penal Code Section 653(m) Threatening Telephone Calls*, in that: On October 31, 2008, during a recorded telephone conversation you threatened Deputy [REDACTED] when you said, *"Then, then things, then things are going to increase."* [REDACTED] replies, *"Okay, then increase it. Leave me alone, leave me alone, stop harassing me, stop calling me."* You tell [REDACTED], *"You are not gonna like it."* [REDACTED] tells you, *"Stop calling me."* You again repeat, *"You're not gonna like it."* [REDACTED] responds, *"Why, what are you going to do, try to kill me, try and kill me?"* You did not deny her allegation, instead you reply, *"I am not saying shit, 'cause I know you have someone in the car."* You failed as an employee to obey all laws of the United States, of this state, and of local jurisdictions.

CAUSE IV

You are guilty of Dishonesty as set forth under Section 7.2 (d) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.46 – Truthfulness**, in that: On August 24, 2009, during your Internal Affairs interview, you were untruthful when you denied placing an object in [REDACTED]' back in an attempt to force her into your vehicle. You were also untruthful when you denied having a telephone conversation with [REDACTED] where you acknowledged the allegation. [REDACTED] provided her statement and a recorded telephone communication indicating the allegation was factual. Because you failed to be truthful, you have seriously hampered your ability as an employee of the San Diego Sheriff's Department to effectively testify in court. Dishonesty has been termed intolerable in matters where the employee holds a position of public trust and confidence.

CAUSE V

You are guilty of Inefficiency as set forth under Section 7.2 (b) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.30 – Failure to Meet Standards**, in that: During your Internal Affairs interview, you could not recall placing an object (simulating a weapon) in [REDACTED]' back. You have failed as a deputy, on the San Diego Sheriff's Department, to maintain the highest standards of efficiency and assume the responsibilities of your position.



CAUSE VI

You are guilty of acts that are incompatible with and/or inimical to the public service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the **San Diego County Sheriff's Department Executive Order** and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts inimical to the public service is set forth under Cause I through V above.

Your attention is directed to Sections 904.1, 904.2, 909, 909.1, 910.1(k), and 910 (k)(l) of the Charter of the County of San Diego and Rule VII of the Civil Services Rules. If you wish to appeal this order to the Civil Service Commission of the County of San Diego, **you must file such an appeal and an answer in writing with the Commission within ten (10) calendar days after this order is presented to you.**

Such an appeal and answer must be in writing and delivered to the Civil Service Commission at its offices at 1600 Pacific Highway, Room 458, San Diego, California 92101, within such ten (10) calendar day period. An appeal is not valid unless it is actually received by the Commission within such ten (10) calendar day period. **A copy of such appeal and answer shall also be served, either personally or by mail, by the employee on the undersigned within the same ten (10) calendar day period.**

Sincerely,



William D. Gore, Sheriff

WDG:jh



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

- ☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**
- ☐ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

- ☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **ORDER OF SUSPENSION AND CHARGES**
- ☒ **ORDER OF TERMINATION AND CHARGES**


- ☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

of which a true copy is attached hereto, by delivering a copy thereof to

RICHARD FRIED personally at RIDGEHAVEN on
MARCH 15, 2010.

I declare under penalty of perjury that the foregoing is true and correct.

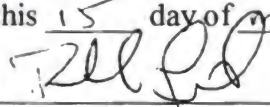
Executed this 15 day of MARCH, 2010, at SAN DIEGO, California.


Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 15 day of MARCH, 2010.

SIGNED 

IA# 2009-001.1

Released from I.A. Files

To: 



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

Thomas J. Cooke, Undersheriff

January 13, 2010

Mr. Richard Fried
[REDACTED]
[REDACTED]

Dear Deputy Fried:

NOTICE OF INTENT OF TERMINATION AND CHARGES, CASE #2009-001.1

Please take notice that it is my intention to recommend to the Sheriff that you be terminated from your position as a Deputy Sheriff-Detentions/Court Services (Class #5757) in the Sheriff's Department and the Classified Service of San Diego County for each and all of the following causes:

CAUSE I

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"Keeping the Peace Since 1850"

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Released from
I.A. Files
TO: [REDACTED]

Deputy Richard Fried

Date: January 13, 2010

CAUSE VI

You are guilty of acts that are incompatible with and/or inimical to the public service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the **San Diego County Sheriff's Department Executive Order** and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts inimical to the public service is set forth under Cause I through V above.

You have **five (5)** regular business days to request a Skelly Conference. You may respond either orally, in writing, or both, regarding the above proposed charges and discipline. Your response will be considered by the Sheriff before final action is initiated. Upon receipt of this notice you will be provided with all documents possessed by this department upon which this proposed action is based. If you have any questions of said documents, please contact Lieutenant Conway of the Internal Affairs Unit.

You have until 4:30 p.m. on Jan 22, 2010 to contact Internal Affairs at (858) 974-2065, if you wish to respond to the above charges and discipline. Internal Affairs will provide you the name of a Skelly Officer, whom you should contact without delay, as the conference must be held within ten (10) days, unless waived by mutual agreement. If there are extenuating circumstances precluding you from staying within this time limit, contact Internal Affairs immediately.

If you fail to respond, or if your response is unsatisfactory, an Order of Termination and Charges will be served upon you and the discipline initiated.

Sincerely,

WILLIAM D. GORE, SHERIFF



Frank C. Clamser, Jr. Captain-Detentions
San Diego Central Jail

WDG:FCC:jh



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**

☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**

☒ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**

☐ **ORDER OF SUSPENSION AND CHARGES**

☐ **ORDER OF TERMINATION AND CHARGES**

☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

of which a true copy is attached hereto, by delivering a copy thereof to

RICHARD FRIED personally at SAN DIEGO CA on
JAN. 14, 2010.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of JANUARY, 2010, at SAN DIEGO, California.

[Signature]
Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 14th day of JANUARY, 2010.

SIGNED [Signature]

IA# 2009-001.1

Released from I.A. Files

To: [Signature]



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

March 2, 2010

TO: William D. Gore, Sheriff

FROM: Tim Curran, Captain
Vista Patrol Station

VIA: Chain of Command

SKELLY CONFERENCE – DEPUTY-DETENTIONS RICHARD FRIED I.A. CASE # 2009-001.1

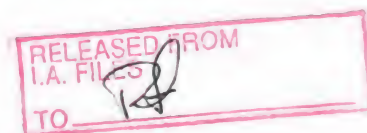
SYNOPSIS

On the evening of July 28, 2008, Deputy-Detentions Richard Fried met with [REDACTED] at the Park and Ride parking lot adjacent to Gopher Canyon Road and Interstate 15. The purpose for the meet was for [REDACTED] to [REDACTED] from Deputy Fried.

[REDACTED] alleges that when she approached Deputy Fried's vehicle to [REDACTED], Deputy Fried appeared to have his hand in the front of his waistband as if he was holding an object. As [REDACTED] from the car, Deputy Fried pulled her from the back and placed an object into her back and side. Deputy Fried then told [REDACTED] to get into his car. [REDACTED] refused and continued to [REDACTED] from the car.

Once [REDACTED] out of the car, Deputy Fried got back into his car and drove away. During the subsequent investigations and interviews, Deputy Fried acknowledged that he did meet [REDACTED] at the Park and Ride to [REDACTED]. He further admits he wanted [REDACTED] to get into his vehicle so they could talk. Deputy Fried admits that during the encounter, he did place his hand on the back of [REDACTED]' neck. Deputy Fried denied placing an object into the back and side of [REDACTED], pulling her hair and attempting to scare her.

On October 31, 2008, [REDACTED] recorded a phone conversation between herself and Deputy Fried. In the conversation, Deputy Fried appears to admit to placing his cell phone in the back and side of [REDACTED] and having it in his waistband in an attempt to scare her.



COMMAND RECOMMENDATION

An Internal Affairs investigation concluded that Deputy Fried engaged in Unbecoming Conduct, Conformance to Laws (as it relates to Penal Code Section 664-207, Attempt Kidnapping) by placing an object (simulating a weapon) into the back and side of [REDACTED] in an attempt to force her into his vehicle on July 23, 2008. Additionally, the investigation concluded that Deputy Fried failed in Conformance to Laws (as it relates to Penal Code Section 653(m), Threatening Telephone Calls), when on October 31, 2008, during a recorded telephone conversation, he made threats towards [REDACTED]. The investigation also concluded Deputy Fried was not Truthful during the Internal Affairs investigation when he denied placing an object into her back and side, yet in a recorded conversation with [REDACTED], he indicated the allegation was factual. Finally, the investigation concluded that Deputy Fried Failed to Meet Standards expected of a Deputy on the San Diego Sheriff's Department.

In the Disciplinary Recommendation and Rationale prepared by Lieutenant-Detentions Kania, it was determined that he agreed with the findings from the Internal Affairs investigation. Deputy Fried's command recommended his employment with the San Diego Sheriff's Department be terminated.

CONDUCT OF SKELLY CONFERENCE

By mutual agreement, the Skelly Conference was scheduled for Tuesday, February 16, 2010. It was held in the conference room at the San Diego Sheriff's Department's Vista Patrol Station. Present were Deputy Fried, Attorney Brad Fields and myself as the Hearing Officer.

The Skelly Conference convened at approximately 1535 hours. I digitally recorded the conference and the recording was subsequently downloaded onto a compact disk and submitted with this report.

Deputy Fried acknowledged that he had reviewed and received copies of the following documents:

- Notice of Proposed Disciplinary Action
- Notice of Intent to terminate and the charges
- Investigative reports and any other materials relevant to this matter

After confirming all documents related to this matter were reviewed, Mr. Fields stated they were prepared to proceed with the conference with me as the Hearing Officer.



RESPONSE TO CHARGES

Mr. Fields response to the charges against Deputy Fried began with his belief that at a minimum, Deputy Fried should not be terminated from employment with the San Diego Sheriff's

Department. Mr. Fields went on to say that this case revolves almost completely around a recorded telephone conversation but is really a "he said, she said" matter. [REDACTED] saying Deputy Fried stuck a weapon in her back and he denying that. Mr. Fields believes that five of the six charges against Deputy Fried stem from his statements from the recorded phone call.

Mr. Fields said the event that occurred on the evening of July 23, 2008 did occur but the versions of those events as described by Deputy Fried and [REDACTED] are very different. Mr. Fields said there were no witnesses to the events other than [REDACTED] who could not provide details. Mr. Fields said the person injured that evening was Deputy Fried and the injuries are clearly visible in photographs taken of him by law enforcement after the incident. [REDACTED] claimed Deputy Fried grabbed her by the hair however there is no evidence of any injury to her.

Mr. Fields believes for [REDACTED]' version of the events on July 23, 2008 to make any sense, she would have had to have been unarmed. At the time of the incident, [REDACTED] had just finished a training session at the Academy Firearms facility and was dressed in a Sheriff's uniform type of shirt and it would be only logical that she would still be armed. Deputy Fried states [REDACTED] was in fact armed. Deputy Fried said he even asked her why she was wearing her weapon and she stated something to the effect of "Because I just came from the range dumb ass." Mr. Fields said that if [REDACTED] was so concerned for her safety that when she brought [REDACTED] with her to the location for the [REDACTED], then it would only make sense she would be armed even though she claimed in the Internal Affairs investigation that she was not. Mr. Fields believes this makes Deputy Fried's version of the incident more credible than [REDACTED].

Mr. Fields said the allegation that Deputy Fried attempted to kidnap [REDACTED] is not valid. At this time, Mr. Fields provided me with copies of California Penal Section 207, Kidnapping defined, and California Penal Code Section 664, Punishment for unsuccessful attempt commit crime, attempted murder of peace officer or fire fighter (see attachment A). Mr. Fields said because California Penal Code Section 207(a) states there must be an attempt "to move" and Deputy Fried did not do this. [REDACTED] was not forced to move anywhere against her will. Mr. Fields said this was evidenced by her getting up and walking away with [REDACTED] even though she alleged that Deputy Fried was forcing a weapon against her back. Mr. Fields went on to dispute the validity of California Penal Code Section 664 as it applies to this matter by saying there could not be a failed attempt if there was never any intent to kidnap [REDACTED].

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I.A. FILES
TO [REDACTED]

Mr. Fields next described his belief the recording made by [REDACTED] during a telephone conversation between her and Deputy Fried should not be allowed as evidence in this matter in either the Internal Affairs investigation or at any level of determining discipline including civil service or criminal court. Mr. Fields believes the Sheriff's Department's interpretation of California Penal Code Section 633, to wit; [REDACTED]' recording of

the telephone conversation between herself and Deputy Fried as lawful is flawed and therefore should not be considered as any evidence in this matter. In the absence of the recorded telephone conversation, Mr. Fields believes this is a "he said, she said" case that would not support any sustained findings. He further believes that in the absence of the recording, Deputy Fried's version of the events is far more sensible and credible than [REDACTED].

Mr. Fields described the contents of the recorded conversation as Deputy Fried simply appeasing [REDACTED]. Deputy Fried described the relationship between him and [REDACTED] as one of her having the power over him. Ever since they began to have trouble in their relationship (that ultimately led to their separation), his sole goal was to get his family back together. He so wanted to be back with her and [REDACTED] that he would always apologize to her for things that led to disputes or arguments even though he did not believe he was at fault. Deputy Fried described how he sought counseling for depression during their troubles and his counselor said [REDACTED] had a "narcissistic personality" and enjoyed seeing him hurt emotionally.

Deputy Fried said that prior to the recorded conversation but after the incident on July 23, 2008, [REDACTED] would, at times, lead him to believe their relationship could still be salvaged if he would "own up" to what had occurred on July 23, 2008. Deputy Fried took this to mean that if he would accept her version of the events that evening such as the alleged hair pulling and the alleged placing of a weapon against her back, there was a possibility that they might reconcile. Mr. Fields asked Deputy Fried what specifically was going through his mind when, during the recorded telephone conversation, he told [REDACTED] "It was the corner of my cell phone, the corner of it." When describing the unknown object that he had allegedly pushed into the back and side of [REDACTED]. Deputy Fried replied he was trying to "appease" [REDACTED] with the hope she would "take him back."

At this time, Mr. Fields presented me with a copy of a Psychological Report on Deputy Fried prepared by Dr. [REDACTED] (see attachment B). Deputy Fried was examined by Dr. [REDACTED] on February 9, 2010. In the report, Mr. Fields pointed out that Dr. [REDACTED] identified several factors as to why Deputy Fried would admit to an attempt to kidnap [REDACTED], make her fearful and simulate putting a gun in her back. Mr. Fields described Dr. [REDACTED] report as stating Deputy Fried has a "dependent personality", [REDACTED] dangled "a carrot of reconciliation" in front him and the fact that he had admitted to being at fault to other issues in their relationship previously although that may not have been the case. Deputy Fried did this in the hope [REDACTED] would take him back. Mr. Fields went on to describe how Dr.

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I.A. FILES
TO: [REDACTED]

Deputy Fried went on to describe how he was depressed over the end of his relationship with [REDACTED] and was receiving numerous phone calls from her. He felt he needed to have somebody around him at all times. Because of this, [REDACTED] again moved from the east coast to be with Deputy Fried. [REDACTED] did this at a great personal loss. By moving to California to be with Deputy Fried, [REDACTED] gave up her home and much needed medical care.

Mr. Fields next went on to discuss the alleged threatening phone call allegation. Mr. Fields said the statements made by [REDACTED] during the recorded conversation of "what are you going to do? Try and kill me? What are you going to do, kill me?" is nothing more than her trying to elicit Deputy Fried into saying some type of incriminating statement. Mr. Fields said nothing in the conversation rises to the level of a threatening telephone call as described in California Penal Section 653(m).

The next issue Deputy Fried and Mr. Fields wanted to address was the fact that [REDACTED] agreed to meet at the Park and Ride parking lot at Gopher Canyon Road and Interstate 15 on the evening of July 23, 2008. Deputy Fried said he had always asked her to meet him there as he did on the night in question but [REDACTED] would always refuse and demand that he meet her at another parking lot off of Interstate 15, closer to the Rancho Bernardo area. Deputy Fried said that when she agreed to meet at the Gopher Canyon location, he was somewhat suspicious. It was because of [REDACTED]' surprise agreement that he drove around the parking lot to check the area prior to actually parking and [REDACTED]

In closing, Mr. Fields again reiterated that without the recording of the telephone call, this case would be nothing more than Deputy Fried's version of the events versus [REDACTED]' version. Deputy Fried desperately wanted to get back together with [REDACTED]. Mr. Fields asked that the findings against Deputy Fried be overturned.

Prior to ending the interview, I showed Deputy Fried the photograph taken of him by law enforcement the day after the events of July 23, 2008. I asked Deputy Fried to point to the area on his forehead where he was allegedly struck by [REDACTED]' elbow. Deputy Fried was unable to point to a particular spot on the photo but indicated he was struck on the left side of his forehead. He went on to say that when the law enforcement investigator was taking the photograph, the investigator made a statement to the effect of "I can see redness on the side of your forehead."

The conference was ended at 1615 hours.



DISCUSSION

Mr. Fields and Deputy Fried basically point to four areas that should be deemed as flawed in this case that would warrant the discipline to be overturned. The first is the belief by Mr. Fields and Deputy Fried that the recording of the telephone conversation between Deputy Fried and [REDACTED] was unlawful and should not be admissible at any level of this investigation. When Lieutenant Kania conducted a pre-disciplinary conference with Deputy Fried and Mr. Fields on November 4, 2009, Mr. Fields stated he did not believe anything said during the recorded telephone conversation was admissible and he referenced California Penal Code Section 631. Lieutenant Kania disagreed with Mr. Fields by referencing **California Penal Section 633, Lawful Activity of Law Enforcement Officer**, which states in part:

Nothing in Section 631, 632, 632.5, 632.6 or 632.7 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, police officer of the county of Los Angeles, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, 632.5, 632.6 or 632.7 renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Lieutenant Kania further referenced **California Penal Code Section 633.5**, which states in part:

Nothing in Section 631, 632, 632.5, 632.6 or 632.7 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of 653m. Nothing in Section Nothing in Section 631, 632, 632.5, 632.6 or 632.7 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

Lieutenant Kania disagreed with Mr. Fields opinion here and found the recorded telephone conversation to be admissible in determining discipline in this matter. I agree with Lieutenant Kania's decision. As a Deputy Sheriff for the San Diego County Sheriff's Department, [REDACTED] was within her rights in recording the conversation between herself and Deputy Fried on October 31, 2008. During the Internal Affairs investigation by Sergeant Hannis,

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TO [REDACTED]

Sheriff's Legal Advisor, Robert Faigin was consulted. It was Mr. Faigin's opinion as well that the recorded conversation was admissible in this matter.

In the conversation, Deputy Fried clearly admits to placing what he claimed was his cell phone, in his waistband in an attempt to scare [REDACTED]. Deputy Fried continues during the conversation to say something to the effect of placing the corner of his cell phone in the back of [REDACTED]. On the same recording, Deputy Fried also appears to apologize to [REDACTED] when she brings up the issue of him pulling her hair during the same encounter.

Later, in the same recorded conversation, [REDACTED] requests that Deputy Fried leave her alone and stop calling her. Deputy Fried responded with statements such as:

"This is not going to end."

"Things are going to increase"

[REDACTED] continued to tell Deputy Fried to leave her alone. Deputy Fried responded with another statement of:

"You're not going to like it."

Deputy Fried clearly was threatening [REDACTED] with these statements. It appears his intent was to advise [REDACTED] that he was going to behave in some unknown manner or take an unknown type of action against her because of her rejection of him.

When Deputy Fried was asked about the statements he made to [REDACTED] during the recorded conversation by Investigators from Internal Affairs, he lied.

The next area of concern according to Mr. Fields and Deputy Fried was the wearing or not wearing of a sidearm by [REDACTED] during the incident on Gopher Canyon on July 28, 2008. Mr. Fields believes [REDACTED]'s version of the event is questionable due to his belief and Deputy Fried's statement that [REDACTED] was armed at the time. Mr. Fields found it unreasonable to believe that [REDACTED] was unarmed as she was wearing a Sheriff's uniform and was returning from her work shift at the Sheriff's [REDACTED]. He went on to say, that it is highly suspicious that [REDACTED] would have acted in the manner that she did; ignoring Deputy Fried's alleged demand that she get in his car as he pulled her hair, and forced a weapon into her back, if she had not been armed.

In a follow-up investigation by San Diego Sheriff's Department Detective Vorce, he asked [REDACTED] what she was wearing the night of the incident in the Gopher Canyon Parking lot. [REDACTED] was dressed in black BDU style pants and a black Polo style shirt with something to the effect of San Diego Sheriff's [REDACTED] embroidered on it. This is not an easily recognized Sheriff's type of uniform to the general public and it would not be



unreasonable to believe [REDACTED] had finished her shift at the firearms range and then secured her weapon in her trunk as she indicated when interviewed by Internal Affairs.

Believing [REDACTED] was unarmed, I find it reasonable to believe she was scared during this incident and her version of events to be more accurate than Deputy Fried's version.

The final area of concern for Deputy Fried and his attorney is the explanation of why Deputy Fried would admit to the alleged actions of July 23, 2008 during a recorded telephone conversation with [REDACTED]. It is Deputy Fried's position that he only admitted to the alleged wrongdoings in an effort to gain favor from [REDACTED] and hopefully

reunite their relationship. In the report prepared by Dr. [REDACTED] he explains that false confessions can sometimes be explained as the hope by the individual that something of value may come as a result of the confession. Dr. [REDACTED] wrote that individuals have falsely confessed to events as bad as murder in the hope of receiving something positive or valuable such as the safe return of a family member, one's life or limb or a reduced penal sentence just to name a few.

Based upon the other information in this case, [REDACTED]' version of the events on the evening of July 23, 2008 is far more credible than Deputy Fried's.

After hearing from Deputy Fried and Mr. Fields during the Skelly Conference, and thoroughly reviewing all of the documents associated with this investigation, I am not without compassion for Deputy Fried's situation. The ending of a romantic relationship is never easy. When you factor in the [REDACTED] Deputy Fried and [REDACTED] have together the emotions become that much more volatile. However, on July 23, 2008, Deputy Fried made a conscious decision to take demonstrate his frustration and desire to repair his relationship with [REDACTED] by grasping her hair or at the minimum, touching the back of her neck, positioning an item in his waistband to appear as a weapon in order to frighten her and then positioning the item in [REDACTED]' back and side in an attempt to force her into his car. Deputy Fried later admitted to these events during a recorded telephone conversation with [REDACTED] that was recorded. To make matters worse, during his Internal Affairs interview, Deputy Fried denied numerous times that he placed anything in [REDACTED]' back. Deputy Fried also denied admitting to such behavior during the recorded telephone call.

In determining Deputy Fried's fate in this matter, Lieutenant Kania wrote (in part),

"During my pre-disciplinary hearing on November 4, 2009 with Deputy Fried, I informed him that this was his opportunity to dispute any facts in this case or give me any mitigating circumstances surrounding this case. Both attorney Fields and Fried both mentioned that during Fried and [REDACTED]' relationship, Fried would often say things to [REDACTED] to appease her. Fried did not dispute any of the facts of this case nor disagree with any of the

findings. Instead, Fried talked about his relationship with [REDACTED] and how controlling and manipulative she is.

These sustained findings seriously hamper Deputy Fried's ability to effectively testify in court. If subjected to a Pitchess Motion, it is hard to imagine a set of circumstances where this case would not be revealed to the party requesting discovery. Any report entered into court would cast doubt upon the veracity of his actions. This has the very real possibility of compromising an important investigation or prosecution or exposing the Department to civil liability it would not otherwise suffer.

Significant discipline is warranted in this case. One of the San Diego County Sheriff's Department Core Values is Honesty, which reads, "We are truthful in our words and in our actions." Regrettably, this core value is not reflected in the acts of Deputy Fried in this case."

I wholeheartedly agree with Lieutenant Kania's assessment.

CONCLUSIONS


Deputy Fried has been a Deputy Sheriff-Detentions for approximately 9 years and his personnel file depicts him as a Fully Competent Deputy-Detentions. His last three Employee Performance Reports rated him as Fully Competent (2008/2009), Fully Competent (2007/2008) and Exceeds Expectations (2006/2007). Deputy Fried does not have any sustained prior Internal Affairs investigations.

Deputy Sheriffs occupy positions of trust. Absolute integrity and good judgment are fundamental qualities for anyone who possesses the authority of a Deputy Sheriff. Integrity and good judgment cannot easily be learned; they are inherent personality traits. Deputy Fried's actions cannot be excused. Deputy Fried has demonstrated behavior of unbecoming conduct, failure to conform to laws, failure to be truthful and failure to meet standards.

Deputy Sheriff's are closely observed both on and off duty and their expected behavior standards are higher than that of the general public. Deputy Fried demonstrated he knew this and acted appropriately and legally for more than four years of his relationship with [REDACTED]. While I can appreciate the sadness and almost unimaginable level of frustration Deputy Fried went through during the crumbling of his relationship with [REDACTED], it is always expected that he will follow the law and make good, sound and reasonable decisions in both his professional and personal life. That is what is expected of a Deputy Sheriff. It is the actions he took on July 23, 2008 and later on October 31, 2008 that were the subject of the Internal Affairs investigation. Deputy Fried's actions in this incident absolutely call for significant discipline.

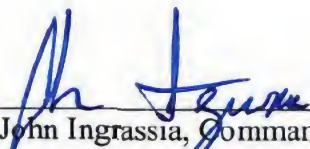
RECOMMENDATION

I recommend the charge of Sheriff's Policy and Procedure Sections 2.3-Unbecoming Conduct, 2.6-Conformance to Laws in that Deputy Fried attempted to kidnap [REDACTED] in violation of Penal Code Section 664-207, 2.6-Conformance to Laws in that Deputy Fried made threats towards [REDACTED] in violation of Penal Code Section 653(m), 2.46-Truthfulness in that Deputy Fried was not truthful during the Internal Affairs investigation and Failure to Meet Standards in that Deputy Fried failed to meet the standards expected of a Deputy on the San Diego Sheriff's Department be affirmed. That being said, I recommend the proposed discipline of Deputy Fried's employment with the San Diego County Sheriff's being terminated be affirmed.


Tim Curran, Captain
Vista Patrol Station

TJC:tjc



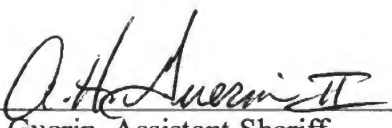

John Ingrassia, Commander
Detentions Services Bureau

☒ Approve

☐ Disapprove

Date: 3-5-10

Comments: _____


Al Guerin, Assistant Sheriff
Detentions Services Bureau

☒ Approve

☐ Disapprove

Date: 03/05/10

Comments: _____

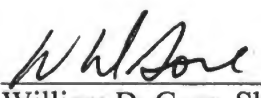

Thomas J. Cooke, Undersheriff

☒ Approve

☐ Disapprove

Date: 3-15-10

Comments: _____



William D. Gore, Sheriff

☒ Approve

☐ Disapprove

Date: 3/15/10

Comments: _____

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Source: Legal > / ... / > CA - Deering's California Codes Annotated (1)

TOC: Deering's California Code Annotated > / ... / > Chapter 3. Kidnapping > § 207. Kidnapping defined

Cal Pen Code § 207

Retrieve State Legislative Impact@ (\$)  


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PENAL CODE
Part 1. Of Crimes and Punishments
Title 8. Of Crimes Against the Person
Chapter 3. Kidnapping

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Pen Code § 207 (2009)

§ 207. Kidnapping definedPractitioner's Toolbox   History Comments Notes Notes of Decisions

Resources & Practice Tools

 Related Statutes & Rules Collateral References

> Kidnaping: 18 USCS § 5 1201 et seq.

> White Slave Traffic (Mann Act): 18 USCS § 5 2421 et seq.

> Cal Criminal Defense Prac., ch 142, "Crimes Against the Person".

 More... Suggested Forms

(a) Every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping.

(b) Every person, who for the purpose of committing any act defined in Section 288, hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any child under the age of 14 years to go out of this country, state, or county, or into another part of the same county, is guilty of kidnapping.

(c) Every person who forcibly, or by any other means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, without having established a claim, according to the laws of the United States, or of this state, or who hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken or removed therefrom, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, or to the use of another, without the free will and consent of that persuaded person, is guilty of kidnapping.

(d) Every person who, being out of this state, abducts or takes by force or fraud any person contrary to the law of the place where that act is committed, and brings, sends, or conveys that person within the limits of this state, and is afterwards found within the limits thereof, is guilty of kidnapping.

(e) For purposes of those types of kidnapping requiring force, the amount of force required to kidnap an unresisting infant or child is the amount of physical force required to take and carry the child away a substantial distance for an illegal purpose or with an illegal intent.

(f) Subdivisions (a) to (d), inclusive, do not apply to any of the following:




(1) To any person who steals, takes, entices away, detains, conceals, or harbors any child under the age of 14 years, if that act is taken to protect the child from danger of imminent harm.



(2) To any person acting under Section 834 or 837.

 History:

Enacted 1872. Amended Stats 1905 ch 493 § 1; Stats 1982 ch 1404 § 1; Stats 1990 ch 55 § 1 (SB 1564); Stats 2003 ch 23 § 1 (SB 450).

 Notes:

-  1. Amendments
-  2. Historical Derivation
-  3. Note

-  1. Amendments:
 -  1905 Amendment



Source: [Legal](#) > /.../ > CA - Deering's California Codes Annotated |TOC: [Deering's California Code Annotated](#) > /.../ > [Title 16. General Provisions](#) > § 664. Punishment for unsuccessful attempt to commit crime; Attempted murder of peace officer or fire fighter

Cal Pen Code § 664

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PENAL CODE
Part 1. Of Crimes and Punishments
Title 16. General Provisions

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Cal Pen Code § 664 (2010)

§ 664. Punishment for unsuccessful attempt to commit crime; Attempted murder of peace officer or fire fighter

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Resources & Practice Tools

[Related Statutes & Rules](#)[Collateral References](#)

> [Cal Forms Pl & Practice \(Matthew Bender\) ch 222 "Dissolution Of Marriage: Property Division And Valuation"](#)

> [Cal Criminal Defense Prac... ch 141, "Conspiracy, Solicitation, and Attempt"](#)

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Every person who attempts to commit any crime, but fails, or is prevented or intercepted in its perpetration, shall be punished where no provision is made by law for the punishment of those attempts, as follows:

(a) If the crime attempted is punishable by imprisonment in the state prison, the person guilty of the attempt shall be punished by imprisonment in the state prison for one-half the term of imprisonment prescribed upon a conviction of the offense attempted. However, if the crime attempted is willful, deliberate, and premeditated murder, as defined in Section 189, the person guilty of that attempt shall be punished by imprisonment in the state prison for life with the possibility of parole. If the crime attempted is any other one in which the maximum sentence is life imprisonment or death, the person guilty of the attempt shall be punished by imprisonment in the state prison for five, seven, or nine years. The additional term provided in this section for attempted willful, deliberate, and premeditated murder shall not be imposed unless the fact that the attempted murder was willful, deliberate, and premeditated is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(b) If the crime attempted is punishable by imprisonment in a county jail, the person guilty of the attempt shall be punished by imprisonment in a county jail for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense attempted.

(c) If the offense so attempted is punishable by a fine, the offender convicted of that attempt shall be punished by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense attempted.

(d) If a crime is divided into degrees, an attempt to commit the crime may be of any of those degrees, and the punishment for the attempt shall be determined as provided by this section.

(e) Notwithstanding subdivision (a), if attempted murder is committed upon a peace officer or firefighter, as those terms are defined in paragraphs (7) and (9) of subdivision (a) of Section 190.2, a custodial officer, as that term is defined in subdivision (a) of Section 831 or subdivision (a) of Section 831.5, a custody assistant, as that term is defined in subdivision (a) of Section 831.7, or a nonsworn uniformed employee of a sheriff's department whose job entails the care or control of inmates in a detention facility, as defined in subdivision (c) of Section 289.6, and the person who commits the offense knows or reasonably should know that the victim is a peace officer, firefighter, custodial officer, custody assistant, or nonsworn uniformed employee of a sheriff's department engaged in the performance of his or her duties, the person guilty of the attempt shall be punished by imprisonment in the state prison for life with the possibility of parole.

This subdivision shall apply if it is proven that a direct but ineffectual act was committed by one person toward killing another human being and the person committing the act harbored express malice aforethought, namely, a specific intent to unlawfully kill another human being. The Legislature finds and declares that this paragraph is declaratory of existing law.

(f) Notwithstanding subdivision (a), if the elements of subdivision (e) are proven in an attempted murder and it is also charged and admitted or found to be true by the trier of fact that the attempted murder was willful, deliberate, and premeditated, the person guilty of the attempt shall be punished by imprisonment in the state prison for 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce this minimum term of 15 years in state prison, and the person shall not be released prior to serving 15 years' confinement.

[History](#)

Brad Fields

From: [REDACTED]
Sent: Friday, February 12, 2010 12:07 PM
To: Brad Fields
Subject: Fwd: Internal Affairs (S.D Sheriff's Department)

Begin forwarded message:

From: [REDACTED]
Date: February 8, 2010 14:15:52 PST
To: [REDACTED]
Subject: Fw: Internal Affairs (S.D Sheriff's Department)

----- Forwarded Message -----

From: [REDACTED]
To: [REDACTED]
Sent: Mon, February 8, 2010 2:02:03 PM
Subject: Internal Affairs (S.D Sheriff's Department)



February 8, 2010- The following facts are true and correct.

I would seriously suggest you look deeper into your shoddy investigative work based on one cohearsed phone call between Richard Fried and [REDACTED]. Many incidents led up up said phone call which I was a witness to (all on speaker phone). Why was I not interviewed as a viable witness?

I have transcripts documented in court leading up to that day. I lived with them for 3 1/2 years and [REDACTED] abused caused me to move EAST. I came back August of 08 since [REDACTED] needed my moral support, and as a witness to [REDACTED] ongoing threats to take [REDACTED] get Richard fired and hopefully working as a bagger at Von's. This is not a joke. I have seen her break things, verbally abuse [REDACTED], threaten to kill herself (holding a knife to her throat) if he tried to leave the house, break my mothers antique rocking chair (only item I had of hers), belittle, humiliate and harrass [REDACTED]. You refuse to see this side of [REDACTED]-mental cruelty beyond reason.

I had to file a restraining order order against her in Feb.09 due to threats to my life. It's started up again and will re-file since I'm elderly and cannot defend myself emotionally or physically. [REDACTED] lawyer said if I drop case [REDACTED] would drop all accusations against [REDACTED] since it affected her job. Sorry I believed her lawyer I had no idea a lawyer could not be trustworthy and even tell me or Richard she is tired of ongoing accusations [REDACTED] is making and that we could call her anytime and she would charge [REDACTED]. It didn't help that I could not afford a lawyer and trusted her attorney. After Court [REDACTED] still called the house, negative remarks

against me to [REDACTED] and stand by since I am going to die soon and she's going to celebrate: (all disobeying court order). I take these statements as a threat and will stop it. My health isn't great but I do know she can't keep violating my rights and breaking law. It became obvious to me that he needed to hold a tape up everytime she spoke to him or state such when she called to discourage her behavior, but Richard didn't take the advice of professionals who said it is the only way to stop her.

Prior to taped conversation, [REDACTED] kept calling (not suppose to contact him), but due to concern for [REDACTED] he would answer phone. She intimidate him, controlled his emotions, humiliated him and degraded him as a man. Several statements always the same: If you want any chance of getting back together with me admit you were tryin to scare me. She had him so confused with her threats of not seeing [REDACTED] any more and no future unless he did as she said. I thank [REDACTED] (through work) for shedding some light on her ongoing tactics leading to his emotional instability. [REDACTED]
[REDACTED]. Of course, no foundation again.

I do not get intimidated by her. It infuriated her that I stand up to her and call her bluff. She says she's untouchable and due to her job she cannot get trouble-she knows how to work the system. I hope you can somehow legally get transcripts from Mediator that the Court ordered us to go and resolve our issues. Unfortunately mediator did not submit transcript to Court, only stated we didn't come to agreement. [REDACTED] was caught in two lies.

1. She finally admitted she told me to "stand by" in reference to my death.
2. Admitted to calling [REDACTED] (Richard's [REDACTED])

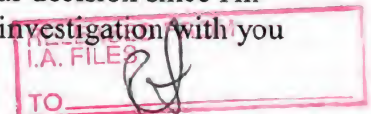
[REDACTED] with anyone per her superior. [REDACTED] said it was police business. Mediator called her on it. [REDACTED] tried to back pedal but too late. All she said is we are all losers and as far as I heard [REDACTED] character and untruthfulness are unacceptable.(RED FLAG).

I am still in CA. giving up good medical care in NY. I have since been deemed disabled, but I'll be damned if I will let [REDACTED] run me too. She is a bitter, hateful, cold and calculating person.

All [REDACTED] wants to do is move on, love and care for [REDACTED] together, but she will not let the past go. She has no regard for the outcome that her actions will cause on the [REDACTED] Just leave us in peace. [REDACTED] has serious issues: truthfulness, revenge, and anger issues.

On 12/21/09 she called the house (against court order and on caller ID) to call my quasimoto and am I dead yet? When am I going to die? [REDACTED] needs to be forced to get psychological help.

I could go back when I lived w/th them and all the neglect [REDACTED] received. I know- [REDACTED] and I care for and protected them. Please seriously consider your decision since I'm trusting in the legal system to do the right thing. If not, I will file an IA investigation with you and the Courts until justice and fairness is done.



By the way, I have all documentation letters and statements, dates, specifics which you may see that already have been filed over the last year and a half. I cannot count the number of times Richard could have reported her for the abuse. Richard just went along with whatever she wanted until she defeated him. I remember when he was offered a job at the Court House after a long wait list. He was so happy. Of course, [REDACTED] said NO! The schedule would take away from his attention to [REDACTED] and cause her to spend more time w/them. Lo and behold shortly thereafter, [REDACTED] got a job at [REDACTED] (same hours as the Court hours) and of course she took it stating: I will move up the chain and destroy you-you gullible pathetic, weak man, etc.

Believe me, I'm serious. [REDACTED] needs to be punished for facts stated and it's not for revenge, but common decency. Punish Rick? Punish [REDACTED] too. Please investigate all previous verbal and mental abuse by [REDACTED]. Not only is it documented with the Court but by previous statements Richard and I heard from: Richard's previous attorney, [REDACTED], [REDACTED], [REDACTED], mediator, the police officer when she filed false report that accusations were unwarranted and no need to arrest him, [REDACTED] sister, co-workers, granddaughter [REDACTED] and ex-wife [REDACTED].

She has destroyed Richard personally, financially and professionally. As Richard's self-esteem is slowly destroyed, his spirit is crushed. [REDACTED] abuse kept reinforcing loss of hope, drive and positive attitude. Thank goodness he is happy again and couldn't be a better, loving father to his children. Richard has overcome diversity and has become a stronger person for it. Consider the ethical, moral and legal outcome of your decision not knowing all the facts.

[REDACTED]





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

November 18, 2009

TO: William Gore, Sheriff

FROM: Mark Kania, Lieutenant
San Diego Central Jail

VIA: Chain of Command

Disciplinary Recommendation and Rationale for Deputy Sheriff – Detentions/Court Services Richard Fried

RE: Internal Affairs Case: 2009-001.1

RECOMMENDATION

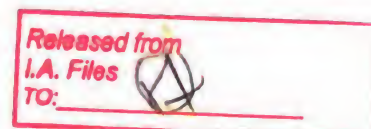
I have reviewed the investigation prepared by Sergeant Jerry Hannis of the Internal Affairs Unit and listened to all of the recorded interviews submitted with it. Sergeant Hannis found Deputy Sheriff-Detentions Fried in violation of Department Policy and Procedure sections:

- 2.4 Unbecoming Conduct
- 2.6 Conformance to Laws (As it relates to: Penal Code Section 664-207 Attempt Kidnapping)
- 2.6 Conformance to Laws (As it relates to: Penal Code Section 653(m) Threatening Telephone Calls)
- 2.46 Truthfulness
- 2.30 Failure to Meet Standards

I concur with Sergeant Hannis' conclusions and findings. Based on the nature of the conduct, and after weighing the factors in aggravation and mitigation, I recommend Deputy Sheriff-Detentions Fried be terminated from employment.

RATIONALE

Sergeant Hannis' investigation was thorough and fair and there is a preponderance of evidence to believe the alleged misconduct occurred. The rules violated are clear and understandable. In



November 18, 2009

Page 2

reviewing the investigation and recordings, I have found no evidence of bias or ill will by Sergeant Hannis or the witness in this investigation.

On November 4, 2009, at 1330 hours, I met with Deputy Fried and Attorney Brad Fields, Deputy Fried's chosen representative, in the conference room at the Office of Internal Affairs. Before asking any questions or having any discussion with Deputy Fried regarding the facts of the case, I allowed both he and his attorney to review the investigation in private. When Attorney Fields informed me they were done reviewing the investigation, I began the meeting. I recorded the interview digitally and transferred it to a disc, which I attached to this memorandum as a reference.

The pertinent facts in this case are not in dispute. On July 23, 2008, Deputy-Detentions Richard Fried met with [REDACTED] at Gopher Canyon Park and Ride to [REDACTED].

[REDACTED] alleges that when she was getting [REDACTED] out of Fried's car, he pulled her hair and placed something against her back. Fried then told [REDACTED] to get into his vehicle. [REDACTED] refused to get into the car and continued to get [REDACTED] out of Fried's vehicle. Once the kids were out of the car, Fried left the scene. Fried admits he wanted [REDACTED] to get into his vehicle in order to talk to her. Fried stated that during this encounter he did place his hand on the back of [REDACTED]' neck. Fried denied placing something in [REDACTED]' back, pulling her hair and making any attempts to scare her.

On October 31, 2008, [REDACTED] recorded a telephone conversation between her and Fried regarding the events that took place on July 23, 2008.

During my meeting with Fried, Attorney Fields did not believe that anything said during that recorded conversation was admissible referencing penal code section 631.

Penal Code section 633 Lawful activity of law enforcement officer

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, police officer of the County of Los Angeles, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

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I.A. Files
TO: [REDACTED]

Penal Code section 633.5 Recording by party to communication

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of Section 653m. Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

During the recorded telephone conversation, Fried admitted to putting the corner of his cell phone in [REDACTED] back and also tried to scare her by having it in his waistband.

RF *Richard Fried*

[REDACTED]

RF *No, I just wanted you to get in the car to talk to me.*

[REDACTED] *You know, I don't care, you are such a liar. It's just a cell phone.*

RF *That is exactly what it was. I wanted you to get in the car and talk to me.*

[REDACTED] *I didn't want to talk to you, so what did you put in my back to force me in the car?*

RF *It was the corner of my cell phone, the corner of it.*

[REDACTED] *And why did you have that in your waistband?*

RF *Trying to scare you.*

[REDACTED] *Exactly, and so you never pulled my hair and you never did anything. Oh, I never did that it must have been an accident. It must have been my cell phone.*

RF *I already told you, I apologize.*

Also during that same recorded conversation, Fried threatens [REDACTED].

RF *This is not going to end
Things are going to increase*

[REDACTED] *Okay, then increase it. Leave me alone. Leave me alone, stop harassing me, stop calling (Fried interrupts).*



November 18, 2009

Page 4

RF *You're not going to like it.*

■ *Stop calling me.*

RF *You're not going to like it.*

■ *Why? What are you going to do? Try and kill me? What are you going to do, kill me?*

RF *I'm not saying shit because I know you have somebody in the car.*

On August 24, 2009, Fried was interviewed by Internal Affairs Sergeants Hannis and Kusler. Also present in the interview was attorney Brad Fields. During the interview, Fried was asked numerous times if he placed his cell phone in ■' back. Fried denied placing anything in ■' back.

JH *Sergeant Jerry Hannis*

LK *Sergeant Larry Kusler*

RF *Richard Fried*

JH *Did you use the cell phone at all to try to scare her?*

RF *No.*

JH *Did you place anything in ■' back while at the Park and Ride?*

RF *No, I did not.*

JH *So what I want to do, I want to make myself perfectly clear on this. That you at no time used a cell phone or any type of an object, whether it be your hand, your finger, a cell phone, or a rubber gun, anything like that at the Park and Ride and put it in her back.*

RF *No, I did not.*

During the Internal Affairs interview, Fried was asked if he ever told anybody he used a cell phone and put it in ■' back to scare her.

JH *Did you ever tell anybody that you used the cell phone and put it in her back to scare her?*

RF *No, no.*

LK *You never told her that?*

RF *I didn't tell her that, no.*

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I.A. Files
TO: 

November 18, 2009

Page 5

LK *Did you ever tell her that?*

RF *No.*

JH *During this incident would you ever admit to something you didn't do?*

RF *Oh, no.*

The facts in the case show Fried did admit to [REDACTED] during a recorded telephone conversation that he placed the corner of his cell phone in her back in order to get her into his car to talk to him. Fried also admitted during the same telephone conversation, that he had the cell phone in his waistband in an attempt to scare her.

During the Internal Affairs interview, Fried denied numerous times that he placed anything in [REDACTED]' back. Fried also denied that he admitted to [REDACTED] that he placed the corner of his cell phone in her back and had the cell phone in his waistband to scare her.

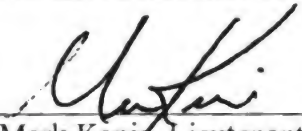
During my pre-disciplinary hearing on November 4, 2009 with Deputy Fried, I informed him that this was his opportunity to dispute any facts in this case or give me any mitigating circumstances surrounding this case. Both attorney Fields and Fried both mentioned that during Fried and [REDACTED]' relationship, Fried would often say things to [REDACTED] to appease her. Fried did not dispute any of the facts of this case nor disagree with any of the findings. Instead, Fried talked about his relationship with [REDACTED] and how controlling and manipulative she is.

These sustained findings seriously hamper Deputy Fried's ability to effectively testify in court. If subjected to a *Pitchess* Motion, it is hard to imagine a set of circumstances where this case would not be revealed to the party requesting discovery. Any report entered into court would cast doubt upon the veracity of his actions. This has the very real possibility of compromising an important investigation or prosecution or exposing the Department to civil liability it would not otherwise suffer.

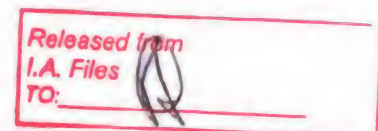
Significant discipline is warranted in this case. One of the San Diego County Sheriff's Department Core Values is Honesty, which reads, "*We are truthful in our words and in our actions.*" Regrettably, this core value is not reflected in the acts of Deputy Fried in this case.

I believe my recommendation is appropriate and proportionate for the conduct by Deputy Fried. The discipline proposed here is warranted and appropriate for the violations outlined.

For all the reasons above, termination is the prudent discipline in this case.



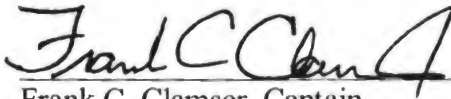
Mark Kanja, Lieutenant
San Diego Central Jail



November 18, 2009

Page 6

ENDORSEMENTS



Frank C. Clamser, Captain
San Diego Central Jail

☒ Approve [] Disapprove

Date: 1/4/2010

Comments: _____

John Ingrassia, Commander
Detention Operations Area 2

[] Approve [] Disapprove

Date: _____

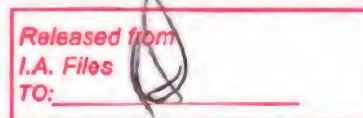
Comments: _____

A.H. Guerin, Assistant Sheriff
Detention Services Bureau

[] Approve [] Disapprove

Date: _____

Comments: _____



November 18, 2009

Page 7

Jim Cooke, Undersheriff
San Diego County Sheriff's Department

[] Approve [] Disapprove

Date: _____

Comments: _____

William D. Gore, Sheriff
San Diego County Sheriff's Department

[] Approve [] Disapprove

Date: _____

Comments: _____

Released from
I.A. Files
TO: _____



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

Thomas J. Cooke, Undersheriff

January 21, 2010

Law Offices of Bobbitt, Pinckard & Fields
8388 Vickers Street
San Diego, CA 92111

Re: Deputy-Detentions/Ctsvc Richard Fried
IA# 2009-001.1

Dear Mr. Pinckard:

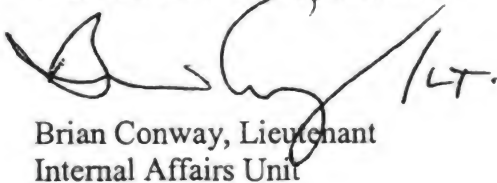
Your discovery request was received in the Internal Affairs Unit on January 19, 2010.

With regard to your discovery request in the matter of Deputy Fried, Deputy Fried was provided copies of all materials upon which the proposed action is based, including copies of all audio recordings.

A copy of Sheriff's Policy and Procedure, Section 2 (Rules of Conduct) is enclosed, containing the policy sections charged in this case.

Sincerely,

WILLIAM D. GORE, SHERIFF


Brian Conway, Lieutenant
Internal Affairs Unit

WDG:BC:pgl

BOBBITT PINCKARD & FIELDS

A Professional Corporation

8388 Vickers Street

San Diego, California 92111

EVERETT L. BOBBITT (1946 - 2007)

RICHARD L. PINCKARD

BRADLEY M. FIELDS

ROBERT W. KRAUSE

CHARLES B. WALKER

Telephone
(858) 467-1199Facsimile
(858) 467-1285www.coplax.orgANNETTE BURSTEIN
Legal Administrator

FAX TRANSMISSION

Date: January 19, 2010

To: SDSO/IA

From: Annette Burstein

Re: Appeal of Richard Fried

FAX No. Sending to: (858) 974-2077

FAX No. Sending from: (858) 467-1285

Total number of sheets **including** this page: 3COMMENTS:☐

Original being mailed via U.S. Mail

☒Original **NOT** being mailed☐

Please confirm receipt by calling (858) 467-1199.

WARNING

The information contained in this facsimile message is confidential information (and may be a privileged attorney-client communication) intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination or distribution of this communication to anyone other than the intended recipient is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

BOBBITT PINCKARD & FIELDS

A Professional Corporation

8388 Vickers Street

San Diego, California 92111-2109

EVERETT L. BOBBITT (1946-2007)

RICHARD L. PINCKARD

BRADLEY M. FIELDS

ROBERT W. KRAUSE

CHARLES B. WALKER

Telephone

(858) 467-1199

Facsimile

(858) 467-1285

www.coplax.org

ANNETTE BURSTEIN

LEGAL ADMINISTRATOR

January 19, 2010

Sheriff William Gore
San Diego County Sheriff's Department
P.O. Box 939062
San Diego, CA 92193-9062

VIA US MAIL & FACSIMILE
(858) 974-2244

Re: Deputy Richard Fried

Dear Sheriff Gore:

Our office represents Deputy Richard Fried for the purpose of appeal from the advance notice of adverse action served him on January 14, 2010. Based on the information available to us at this time, on behalf of our client we deny the allegations on which this action is based and request an opportunity to respond to the allegations at the earliest opportunity. Brad Fields will serve as Deputy Fried's representative in this matter. Please contact our office regarding the scheduling of this oral reply at the earliest opportunity either by phone or email to Brad@coplaw.org.

Because our client is a peace officer, he is entitled to the protections afforded under Penal Code section 135.5. Accordingly, prior to any disciplinary proceeding our client is entitled to any relevant information related to the proposed discipline. Relevant information includes evidence that has any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action, or the truthfulness of a witness's testimony or of a declarant's hearsay statement. (See Evidence Code §§ 210, 780 & 1202). Penal Code § 135.5¹ has expanded the nature of information that must be provided to a public safety officer during any disciplinary proceeding. It is now unlawful to conceal any relevant evidence during the disciplinary process. Concealment would include knowingly not providing any relevant evidence.

I recognize some information that may not be relevant to the appointing authority in order to make a decision regarding discipline of a public safety officer would be relevant to my client to disprove the allegations or mitigate the facts or level of discipline. Therefore, I have provided a list of information that we consider relevant to defending our client from the allegations alleged in the proposed notice of discipline. Relevant evidence also includes evidence, which may assist in mitigation of the level of discipline. Please keep in mind the information we are requesting is in addition to that information that must be provided pursuant to *Skelly v. State Personnel Board*, (1975) 15 Cal. 3d 194.

On behalf of our client, we request the following information:

1. A current copy of all policies and procedures alleged to have been violated by our client.

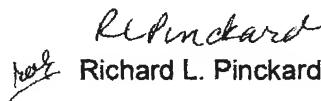
¹ Penal Code § 135.5 states "Any person who knowingly alters, tampers with, **conceals**, or destroys relevant evidence in any disciplinary proceeding against a public safety officer, for the purpose of harming that public safety officer, is guilty of a misdemeanor.

2. All written reports (as defined by *San Diego Police Officers Assn. v. City of San Diego*, (2002) 98 Cal. App. 4th 779) prepared as a result of the allegations against our client.
3. All investigator notes.
4. A copy of all radio transmissions related to this investigation.
5. All written or recorded statements of any potential witness.
6. All prior criminal history of any known potential witness related to this investigation.
7. All information that could lead to or tends to mitigate the conclusions as set forth in the proposed notice of discipline. Information includes any information known to members of your agency whether in a written form or merely within the knowledge of members of your staff.
8. All statements or utterances by our client, oral or written, however recorded or preserved, whether or not signed or acknowledged by our client.
9. The names and addresses of any witness who may have knowledge of the events that caused the discipline to be proposed.
10. An opportunity to examine all physical evidence obtained in the investigation against our client.
11. All laboratory, technician, and other reports concerning the testing and examination of any physical evidence.
12. All reports of experts made in conjunction with the case, involving the results of physical or mental examinations, scientific tests, experimental or comparisons which relate to the allegations as set forth in the notice of proposed discipline.
13. All photographs, motion pictures, or videotapes taken during the investigation.
14. Any exculpatory or mitigating evidence in the possession of your agency.
15. Any information relevant to the credibility of any witness.
16. Any potential rebuttal evidence in the possession of your agency.
17. Any and all relevant evidence known or in the possession of your agency.
18. Any recommendations from supervisory or management staff that differ or contradict the current conclusions or recommendation of discipline.
19. All performance evaluations for the past ten (10) years.
20. Any and all materials reflecting documentation of positive or negative performance maintained in any department files (including Internal Affairs files).
21. Any and all notes, minutes and/or materials from any meetings or discussions involving captains or chiefs in the process of determining the level of discipline to be proposed.
22. Any and all electronically stored data including email and any other computer generated files.
23. Any and all findings of the Citizen's Law Enforcement Review Board relating to this proposed discipline.
24. All discoverable information under Penal Code §1054 as required by *San Diego Police Officers Association v. City of San Diego*, supra, 98 Cal App. 4th 779.

Any information not provided violates Government Code § 3303(g) and subjects your agency to penalty of up to twenty-five thousand dollars plus attorney fees.

Please treat this request as a continuing request until this matter has been settled or adjudicated. Thank you for your anticipated cooperation.

Sincerely,


Richard L. Pinckard

RLP/rab

cc: Internal Affairs

From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

Skelly Conference Letter

IA# 2009-001.1

As indicated on the "Notice of Intent" to discipline, which you are receiving, disciplinary action against you is being considered. If you wish to invoke your right to a pre-disciplinary due process hearing on this matter (*Skelly Conference*), you must make the request within five (5) regular business days. The Skelly Conference is a relatively informal hearing, not an adversarial evidentiary trial. The final date to request a hearing is indicated on your "Notice of Intent". Your request should be made by calling the Internal Affairs Unit at (858) 974-2065.

If you do not request the conference within that time, your right to a Skelly Conference will have been waived, and the recommended discipline may be imposed.

Your Skelly rights are:

1. To receive a written "Notice of Intent" to discipline, that may be served upon you, either in person or by mail. That notice will include the level of proposed discipline, the charges, and a brief explanation of the reason for the discipline.
2. To receive a copy of the materials upon which the proposed discipline is based, including reports, tape/digital recordings, photographs, etc. Any item certified as confidential and withheld from you by the department cannot be used as a basis for discipline.
3. To have sufficient time to review the supporting materials so that your response can be prepared.
4. To respond orally, in writing, or both to the proposed discipline and charges.
5. To a hearing officer who is not in your chain of command.
6. To have a representative or attorney present at the hearing.
7. To receive copies of all materials prepared as a result of the Skelly Conference.
8. To receive a new Skelly Conference for any new charges or increased discipline, which arise from the Skelly Conference.

I have read and understand my Skelly rights.


Richard Fried


Witness


Date

1-14-10

Released from I.A. Files

To: 

From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

ORDER NOT TO DISCLOSE MATERIALS

Pursuant to Department Policy, materials are being furnished to you upon which your proposed discipline is based. These materials are reproductions and are a part of the confidential employee personnel records of the San Diego Sheriff's Department. Dissemination of this information is restricted to a need and a right to know.

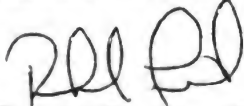
You are ordered not to disclose, release, or copy these materials to or for anyone, other than your attorney and/or association representative, without the written authorization of the Internal Affairs Lieutenant. Materials include all written documentation, tape recordings, and videotapes.

Any unauthorized release of information contained in these documents compromises the confidentiality of your personnel file, and may impede the Department's ability to protect your confidentiality in future discovery motions. This could subject you and the County to unnecessary liability and criticism, to which the Department may be required to defend in a public forum.

You are strongly encouraged to destroy or return these materials when they no longer serve a useful purpose. Should you desire to review material related to your discipline at a later time, you may make arrangements with the Internal Affairs Unit.

Failure to abide by this order could result in a charge of insubordination, and subject you to disciplinary action up to and including termination.

I have received a copy of this order.



Richard Fried Date 1/14/10

IA# 2009-001.1

Released from I.A. Files

To: 